

ASH GROVE CEMENT WEST, INC.  
Inter-Office Memorandum

DATE: AUGUST 28, 1990  
TO: KEN RONE  
FROM: DICK COOKE  
COPY: STEVE SHERIDAN  
SUBJECT: P.S.A.P.C.A. VIOLATION

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Attached is the PSAPCA notice and order of civil penalty for the August 8 violation. Please run this through your office for payment.

REC/ejj

A handwritten signature, likely of Dick Cooke, is written in the center of the page.

MILLER, NASH, WIENER, HAGER & CARLSEN  
ATTORNEYS AND COUNSELORS AT LAW  
3500 U.S. BANCORP TOWER  
111 S. W. FIFTH AVENUE  
PORTLAND, OREGON 97204-3699  
TELEPHONE (503) 224-5656

TELEX 364462 KINGMAR PTL  
TELECOPY (503) 224-0185

SEATTLE OFFICE  
6800 COLUMBIA CENTER  
701 FIFTH AVENUE  
SEATTLE, WASHINGTON 98104-1078  
TELEPHONE (206) 827-8484  
TELECOPY (206) 827-7488

JOHN J. DEMOTT

August 13, 1990


4. Mr. Earl W. Wheeler  
Ash Grove Cement West, Inc.  
6720 S.W. Macadam Avenue, Suite 300  
Portland, Oregon 97201

Subject: Puget Sound Air Pollution Control Agency

Dear Earl:

Enclosed is the notice and order of civil penalty which we discussed on the telephone. As you will note, if you wish to contest the penalty, you must do so within 30 days after August 8, 1990. I understand that there is nothing for us to do with respect to this matter unless we hear from you otherwise.

Very truly yours,

  
John J. DeMott

AGCS2M003492

# SERVICE OF PROCESS TRANSMITTAL FORM



C T Corporation System  
The Corporation Trust Company

SEATTLE WASHINGTON  
(City) (State)

AUGUST 8, 1990  
(Date)

( ☒ ) Via Federal Express

( ) Via Messenger

TO: MILLER NASH WIENER HAGER & CARLSEN  
JOHN J DEMOTT  
111 S W FIFTH AVE  
PORTLAND OR 97204

RE: PROCESS SERVED IN WASHINGTON  
(Jurisdiction)

FOR ASH GROVE CEMENT WEST, INC. NEVADA  
(Name of Company) (Domestic State)

ENCLOSED ARE COPIES OF LEGAL PROCESS SERVED UPON THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

1. TITLE OF ACTION: PUGET SOUND AIR POLLUTION CONTROL AGENCY VS ASH GROVE CEMENT WEST, INC.
2. DOCUMENT(S) SERVED: NOTICE AND ORDER OF CIVIL PENALTY
3. COURT: NONE
4. NATURE OF ACTION: YOU ARE HEREBY NOTIFIED THAT, PURSUANT TO RCW 70.94, YOU ARE IN VIOLATION OF REGULATION I OF THE PUGET SOUND AIR POLLUTION CONTROL AGENCY AND A FINE OF \$1,000.00 IS ASSESSED AGAINST YOU.
5. ON WHOM PROCESS WAS SERVED: C T CORPORATION SYSTEM
6. DATE AND HOUR OF SERVICE: AUGUST 8, 1990 AT 10:30 A.M. VIA CERTIFIED MAIL
7. APPEARANCE OR ANSWER DUE: WITHIN 30 DAYS
8. ~~XXXXXXXXXXXXXXXXXXXX~~ RECEIVED FROM: PUGET SOUND AIR POLLUTION CONTROL AGENCY  
200 WEST MERCER ST, RM 205  
SEATTLE WA 98119-3958
9. REMARKS:  
( ) This confirms our telephone call to your office.  
( ) Above telephoned to C T office and is sent to you per their instructions.

KINDLY ACKNOWLEDGE RECEIPT BY SIGNING  
THE CARBON COPY AND RETURNING IT TO →

Signed THOMAS MCDUGAL, JR/AD  
Per THOMAS MCDUGAL, JR/AD  
Address ASST VICE PRES  
520 PIKE STREET  
SEATTLE WA 98101

PUGET SOUND AIR POLLUTION CONTROL AGENCY,  
a municipal corporation of the state of  
Washington, 200 West Mercer Street, Room 205,  
Seattle, Washington 98119-3958

VS

ASH GROVE CEMENT WEST, INC.  
c/o C T Corporation System, Registered Agent  
520 Pike Street, Suite 2610  
Seattle, Washington 98101

NO. 7227

NOTICE AND ORDER  
OF CIVIL PENALTY

You are hereby notified that, pursuant to RCW 70.94, you are in violation of Regulation I of the Puget Sound Air Pollution Control Agency and a fine of \$1,000.00 is assessed against you. The violation is as follows:

On or about the 16th day of July 1990, in King County, state of Washington, you violated Section 9.15(d) of Regulation I. Section 9.15(d) states: "It shall be unlawful for any person to cause or allow the emission of fugitive dust in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property".

<u>Time</u>	<u>Description</u>	<u>N/V #</u>
2:50 p.m.	Caused or allowed fugitive dust emissions (cement dust) in sizable quantities from hold of the M/V Ocean Breeze during unloading operations at 5900 W. Marginal Way SW in Seattle, Washington.	27009

Such penalty is due and payable within thirty (30) days of receipt of this notice, unless within such time a request for hearing is filed. (See reverse side for hearing procedure.)

If such penalty is not paid on or before the last mentioned date, or a request for hearing has not been made to the Pollution Control Hearings Board of Washington and the Air Pollution Control Officer, action will be commenced in court to recover such penalty.

Dated this 7th day of August 1990.



Anita J. Frankel  
Air Pollution Control Officer

Certified Mail No. P 159 470 275

cc: Kenneth Rone Jr., Terminal Manager  
Ash Grove Cement West, Inc.  
3801 E. Marginal Way South  
Seattle, WA 98134

AGCS2M003494

## APPEAL AND MITIGATION INFORMATION

### Mitigation

Within fifteen (15) days after the notice is received, the person incurring the penalty may apply in writing to the Agency for the remission or mitigation of the penalty. Upon receipt of the application, the Agency may remit or mitigate the penalty upon whatever terms the Agency in its discretion deems proper. The Agency may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extra-ordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

### Appeal

Any penalty imposed may be appealed to the Pollution Control Hearings Board (hereinafter referred to as the PCHB) in accordance with State Law if the appeal is filed with the hearings board and served upon the Agency thirty (30) days after receipt by the person penalized of the notice imposing the penalty or thirty (30) days after receipt of the notice of disposition of the application for relief (remission or mitigation) from penalty.

### Payment

A penalty shall become due and payable on the later of:

- (a) Thirty (30) days after receipt of the notice imposing the penalty;
- (b) Thirty (30) days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or
- (c) Thirty (30) days after receipt of the notice of decision of the hearings board if the penalty is appealed.

If the amount of the penalty is not paid to the Agency within thirty (30) days after it becomes due and payable, the Agency may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business.

### Appeal Procedure

Pursuant to RCW 43.21B.230 and RCW 70.94.431, the appeal shall be perfected by serving a copy of the Notice of Appeal, within thirty (30) days from the date of receipt of the Notice and Order of Civil Penalty, upon the Puget Sound Air Pollution Control Agency (hereinafter referred to as PSAPCA) and the original (and one copy) of the Notice of Appeal with proof of service is to be filed with the PCHB within the thirty (30) day time period specified herein, pursuant to RCW 43.21B.230.

Required procedures are detailed in state law (43.21B RCW and 70.94 RCW) and the PCHB's own regulations (Washington Administrative Code 371.08) which may be found in many public libraries or county and municipal law libraries. Since these documents are published by others, copies of same are not available from PSAPCA.

PSAPCA's address is:

Puget Sound Air Pollution  
Control Agency  
200 West Mercer Street, Room 205  
Seattle, Washington 98119-3958

PCHB's address is:

Pollution Control Hearings Board  
Environmental Hearings Office, M/S PY-21  
4224-6th Avenue SE, Bldg. No. 2, Rowe Six  
Lacey, Washington 98504

All notices of actions in connection with the appeal (date and place of hearings, findings, etc.) will be issued by the PCHB with copies to the person filing the appeal and to PSAPCA.